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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

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Sportvision, Inc., NO. C 04-03115 JW

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Plaintiff,

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v.

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**ORDER APPOINTING RAINER
SCHULZ AS A TECHNICAL ADVISOR**

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SportsMEDIA Technology Corp.,

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Defendant.

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On March 27, 2006, the Court conducted a case management conference. Counsel Burt Magen, Howard Susser, and Merton Thompson appeared on behalf of Plaintiff Sportvision. Counsel Kerry Hopkins appeared on behalf of Defendant SportsMEDIA. The parties confirmed orally that they do not object to the appointment of Mr. Rainer Schulz as a "Technical Advisor" pursuant to the Court's previous order. (See Docket Item No. 251.) Therefore, the Court appoints Mr. Rainer Schulz as a Technical Advisor under the following terms:

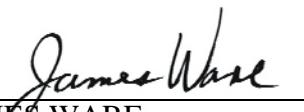
1. Any advice provided to the Court by Mr. Schulz will not be based on any extra-record information.

2. From time to time, the Court may request Mr. Schulz to provide a formal written report on technical advice concerning the case. A copy of the formal written report prepared by Mr. Schulz shall be provided to the parties. However, the Court reserves the right to have informal verbal communication with Mr. Schulz which are not included in any formal written report.

United States District Court

For the Northern District of California

- 1 2. Mr. Schulz may attend any court proceedings.
- 2 3. Mr. Schulz may review any pleadings, motions or documents submitted to the Court.
- 3 4. As a technical advisor, Mr. Schulz will make no written findings of fact and will not
- 4 supply any evidence to the Court. Thus, Mr. Schulz will be outside the purview of "expert
- 5 witnesses" under Fed. R. Evid. 706. As such, the provisions in Rule 706 for depositions and
- 6 questioning of expert witnesses will be inapplicable to Mr. Schulz. See Reilly v. United States, 863
- 7 F.2d 149, 155-156 (1st Cir. 1988).
- 8 5. Mr. Schulz will have no contact with any of the parties or their counsel other than for
- 9 billing purposes.
- 10 6. The parties are directed to pay the reasonable fees charged by Mr. Schulz for his services
- 11 as a technical advisor to the Court in this case. The parties shall confer to determine an
- 12 apportionment for purposes of payment of Mr. Schulz's fees. All matters pertaining to the fees of
- 13 Mr. Schulz are referred to the Magistrate Judge Trumbull.
- 14 7. Mr. Schulz shall file a declaration that he will adhere to the terms of his appointment.
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- 17 Dated: March 27, 2006
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JAMES WARE
United States District Judge

1 **THIS IS TO CERTIFY THAT COPIES OF THIS ORDER HAVE BEEN DELIVERED TO:**

2 Larry Vierra lviera@vmmhd.com
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12 Vincent V. Carissimi carissimiv@pepperlaw.com

13 **Dated: March 27, 2006**

14 **Richard W. Wieking, Clerk**

15 By: /s/ JW Chambers
16 Melissa Peralta
17 Courtroom Deputy